

ESTTA Tracking number: **ESTTA591373**

Filing date: **03/07/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214679
Party	Defendant Natalie Minh Management, LLC
Correspondence Address	CHRISTINA CHAMBERLAIN CHAMBERLAIN LEGAL SERVICES, PLLC PO BOX 1102 WHITE HOUSE, TN 37188-1102 clechamberlain@gmail.com;christina@cham
Submission	Answer
Filer's Name	Christina Chamberlain
Filer's e-mail	christina@chamberlainlegalservices.com
Signature	/Christina Chamberlain/
Date	03/07/2014
Attachments	Answer to Opposition (Shine Theory) 03.07.14.pdf(1263119 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 86006015
Published in the *Official Gazette* December 3, 2013

ANN FRIEDMAN and AMINATOU SOW,

Opposers,

v.

NATALIE MINH MANAGEMENT LLC,

Applicant.

Opposition No.

91214679

**APPLICANT’S ANSWER
TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES**

Applicant, Natalie Minh Management LLC (“Applicant”), for its answer to the Notice of Opposition filed by Ann Friedman and Aminatou Sow (“Opposers”) against application for registration of Applicant’s trademark Shine Theory, Serial No. 86/006015 filed July 10, 2013, and published in the Official Gazette of December 3, 2013 (the “Mark”), pleads and avers as follows:

1. Applicant admits the allegations of paragraph 1.
2. Applicant admits the allegations of paragraph 2 to the extent that a website was created for shinetheory.com but denies that the website consists of “nothing but a landing page.”
3. Applicant admits the allegations of paragraph 3 to the extent that the title of the home page of shinetheory.com is titled “Shine Theory: Why Powerful Women Make the

Greatest Friends.”

4. Applicant admits the allegations of paragraph 4 to the extent that the article “Shine Theory: Why Powerful Women Make the Greatest Friends” listed Ms. Friedman as the author of said article.

5. Applicant admits the allegations of paragraph 5 to the extent that the home page of shinetheory.com, which discussed the purpose of the website along with a contact form to collect biographies of women to be the subject of on-line journals, namely, blogs featuring recognizing women and their achievements; on-line publication of articles related to the achievement of women; providing on-line magazines in the field of recognizing women and their achievements; providing on-line publications in the nature of e-books in the field of recognizing women and their achievements.

6. Applicant denies each and every allegation contained in paragraph 6.

7. Applicant admits the allegations contained in paragraph 7.

8. Applicant denies each and every allegation contained in paragraph 8.

9. Applicant denies each and every allegation contained in paragraph 9.

10. Applicant admits the allegations contained in paragraph 10.

11. Applicant admits the allegations contained in paragraph 11.

12. Applicant denies each and every allegation contained in paragraph 12.

13. Applicant admits the allegations contained in paragraph 13.

14. Applicant admits the allegations contained in paragraph 14.

15. Applicant denies each and every allegation contained in paragraph 12.

16. Applicant denies the allegations contained in paragraph 16 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in

commerce” as it relates to on-line journals and admits other allegations contained in paragraph 16.

17. Applicant denies the allegations contained in paragraph 17 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates blogs and admits other allegations contained in paragraph 17.

18. Applicant denies the allegations contained in paragraph 18 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line magazines and admits other allegations contained in paragraph 18.

19. Applicant denies the allegations contained in paragraph 19 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to e-books and admits other allegations contained in paragraph 19.

20. Applicant denies the allegations contained in paragraph 20 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line journals and admits other allegations contained in paragraph 20.

21. Applicant denies the allegations contained in paragraph 21 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates blogs and admits other allegations contained in paragraph 21.

22. Applicant denies the allegations contained in paragraph 22 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line magazines and admits other allegations contained in paragraph 22.

23. Applicant denies the allegations contained in paragraph 23 to the extent the allegation alludes that Applicant's use of the mark does not satisfy the requirement for "use in commerce" as it relates to e-books and admits other allegations contained in paragraph 23.

24. Applicant denies each and every allegation contained in paragraph 24.

25. Applicant denies each and every allegation contained in paragraph 25.

26. Applicant denies each and every allegation contained in paragraph 26.

27. Applicant denies each and every allegation contained in paragraph 27 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2: Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for "use in commerce."

28. Applicant denies each and every allegation contained in paragraph 28 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2: Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the

basis for “use in commerce.”

29. Applicant denies each and every allegation contained in paragraph 29 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2: Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

30. Applicant denies each and every allegation contained in paragraph 30 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2: Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

31. Applicant denies each and every allegation contained in paragraph 31 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2:

Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100:

Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

32. Applicant denies each and every allegation contained in paragraph 32 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2:

Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100:

Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

33. Applicant denies each and every allegation contained in paragraph 33 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2:

Communication as adopted by the State of New York with Persons Represented by Counsel of the Model Professional Rules of Conduct as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was

represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

34. Applicant denies each and every allegation contained in paragraph 34 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2: Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

35. Applicant admits that after a period of harassing communications by Opposers, she offered to “sign over the URL and drop the USPTO filing” for a sum of one thousand (\$1000.00) dollars, which represented her costs in pursuing trademark protection to date.

36. Applicant denies each and every allegation contained in paragraph 36 and asserts that Opposers agreed to pay the amount requested but refused to enter into a confidential settlement agreement.

37. Applicant denies each and every allegation contained in paragraph 37.

38. Applicant denies each and every allegation contained in paragraph 38.

39. Applicant denies each and every allegation contained in paragraph 39 and asserts that Opposers agreed to pay the amount requested but refused to enter into a confidential settlement agreement.

40. Applicant denies each and every allegation contained in paragraph 40.

41. Applicant denies each and every allegation contained in paragraph 41.

42. Applicant admits the allegations contained in paragraph 42.

43. Applicant denies each and every allegation contained in paragraph 43.

44. Applicant admits the allegations contained in paragraph 44.

45. Applicant denies each and every allegation contained in paragraph 45.

46. Applicant admits the allegations contained in paragraph 46.

47. Applicant denies the allegations contained in paragraph 47 to the extent the allegation alludes that Applicant's use of the mark does not satisfy the requirement for "use in commerce" as it relates to on-line journals and admits other allegations contained in paragraph 47.

48. Applicant denies the allegations contained in paragraph 48 to the extent the allegation alludes that Applicant's use of the mark does not satisfy the requirement for "use in commerce" as it relates to on-line journals and admits other allegations contained in paragraph 48.

49. Applicant denies the allegations contained in paragraph 49 to the extent the allegation alludes that Applicant's use of the mark does not satisfy the requirement for "use in commerce" as it relates to blogs and admits other allegations contained in paragraph 49.

50. Applicant denies the allegations contained in paragraph 50 to the extent the allegation alludes that Applicant's use of the mark does not satisfy the requirement for "use in

commerce” as it relates to blogs and admits other allegations contained in paragraph 50.

51. Applicant denies the allegations contained in paragraph 51 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line magazines and admits other allegations contained in paragraph 51.

52. Applicant denies the allegations contained in paragraph 52 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line magazines and admits other allegations contained in paragraph 52.

53. Applicant denies the allegations contained in paragraph 53 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line e-books and admits other allegations contained in paragraph 53.

54. Applicant denies the allegations contained in paragraph 54 to the extent the allegation alludes that Applicant’s use of the mark does not satisfy the requirement for “use in commerce” as it relates to on-line e-books and admits other allegations contained in paragraph 54.

55. Applicant denies each and every allegation contained in paragraph 55 to the extent that her communications with counsel for Opposers was in violation of Rule 4.2: Communication with Persons Represented by Counsel of the Model Professional Rules of Conduct as adopted by the State of New York as well as in violation of Rule 2-100: Communication with a Represented Party of the California Rules of Professional Conduct, as Applicant was represented by Chamberlain Legal Services, PLLC. At no time did Opposer

contact Chamberlain Legal Services, PLLC to ask permission to speak with Applicant without representation. Applicant is not an attorney and does not have sufficient knowledge or information to form a belief as to whether her use of the mark on shinethoery.com forms the basis for “use in commerce.”

56. Applicant denies each and every allegation contained in paragraph 56.

57. Applicant denies each and every allegation contained in paragraph 57.

58. Applicant denies each and every allegation contained in paragraph 58.

59. Applicant denies each and every allegation contained in paragraph 59.

60. Applicant denies each and every allegation contained in paragraph 60.

61. Applicant admits the allegation of paragraph 61 to the extent that the home page of shinetheory.com, which discussed the purpose of the website along with a contact form to collect biographies of women to be the subject of on-line journals, namely, blogs featuring recognizing women and their achievements; on-line publication of articles related to the achievement of women; providing on-line magazines in the field of recognizing women and their achievements; providing on-line publications in the nature of e-books in the field of recognizing women and their achievements.

62. Applicant admits the allegations of paragraph 62 to the extent that the title of the home page of shinetheory.com is titled “Shine Theory: Why Powerful Women Make the Greatest Friends.”

63. Applicant admits the allegations of paragraph 63 to the extent that the article “Shine Theory: Why Powerful Women Make the Greatest Friends” listed Ms. Friedman as the author of said article.

64. Applicant denies each and every allegation contained in paragraph 64.

- 65. Applicant admits the allegations contained in paragraph 65.
- 66. Applicant denies each and every allegation contained in paragraph 66.
- 67. Applicant denies each and every allegation contained in paragraph 67.
- 68. Applicant denies each and every allegation contained in paragraph 68.
- 69. Applicant denies each and every allegation contained in paragraph 69.
- 70. Applicant admits the allegations contained in paragraph 70.
- 71. Applicant denies each and every allegation contained in paragraph 71.
- 72. Applicant denies each and every allegation contained in paragraph 72.
- 73. Applicant denies each and every allegation contained in paragraph 73.
- 74. Applicant denies each and every allegation contained in paragraph 74.
- 75. Applicant denies each and every allegation contained in paragraph 75.
- 76. Applicant denies each and every allegation contained in paragraph 76.
- 77. Applicant denies each and every allegation contained in paragraph 77.
- 78. Applicant denies each and every allegation contained in paragraph 78.
- 79. Applicant stipulates to the allegations contained in paragraph 79.
- 80. Applicant does not have sufficient knowledge or information to form a belief as the allegations contained in paragraph 80 and accordingly denies the allegations.
- 81. Applicant admits to the allegations contained in paragraph 81.
- 82. Applicant admits to the allegations contained in paragraph 82.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer fails to state a claim upon which relief can be granted.

Second Affirmative Defense

As a result of Applicant's continuous use of the Mark since the time of Applicant's

adoption thereof, the Mark has developed significant goodwill among the consuming public and consumer acceptance of the services offered by Applicant in conjunction with the Mark. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to Applicant, and caused the Mark to become a valuable asset of Applicant.

Third Affirmative Defense

Opposer's alleged rights in and to the portion of "Shine Theory" do not show Opposer's use of the Mark in commerce that predates Applicant's use of the Mark. As such, Opposer's alleged use of the Mark is therefore inherently unprotectable.

WHEREFORE, Applicant prays as follows:

- (a) This opposition be dismissed;
- (b) A registration for the term Shine Theory be issued to the

Applicant. Dated: March 7, 2014

Respectfully Submitted,

CHRISTINA CHAMBERLAIN

/s/ Christina Chamberlain

Christina Chamberlain (TNBPR # 025378)

Chamberlain Legal Services, PLLC

PO Box 1102

White House, TN 37188

Phone: (615) 788-3363

Email: Christina@chamberlainlegalservices.com

Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 7th day of March 2014, a true copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was served in the following manner:

VIA EMAIL AND FIRST CLASS MAIL

Quinn M. Heraty
151 First Avenue, STE 216
New York, NY 10003

Email: Quinn@heratylaw.com

CERTIFICATE OF ELECTRONIC FILING

The undersigned certifies that this submission (along with any paper referred to as being attached or enclosed) is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals (ESTTA) on this 7th day of March 2014.

/s/ Christina Chamberlain

Christina Chamberlain (TNBPR # 025378)

Chamberlain Legal Services, PLLC

PO Box 1102

White House, TN 37188

Phone: (615) 788-3363

Email: Christina@chamberlainlegalservices.com

Attorneys for Applicant

WHITE HOUSE PO
WHITE HOUSE, Tennessee
371889998
4761480188 -0099
(800)275-8777

03/07/2014 03:03:12 PM

Product Description	Sales Receipt		Final Price
	Sale Qty	Unit Price	

@ ~ NEW YORK NY 10003 Zone-5			\$5.60
Priority Mail 2-Day			
Flat Rate Env			
3.50 oz.			
Expected Delivery: Mon 03/10/14			
USPS Tracking #:			
9114901230801010051099			
Includes \$50 insurance			

Issue PVI: =====
\$5.60

Total: =====
\$5.60

Paid by:
Debit Card \$5.60
Account #: XXXXXXXXXXXX8022
Approval #:
Transaction #: 271
23 903582765
Receipt #: 006045

@@ For tracking or inquiries go to
USPS.com or call 1-800-222-1811.

~~ Save this receipt as evidence of
insurance. For information on filing an
insurance claim go to
usps.com/ship/file-domestic-claims.htm.

Order stamps at usps.com/shop or call
1-800-Stamp24. Go to usps.com/clicknship
to print shipping labels with postage. For
other information call 1-800-ASK-USPS.

Get your mail when and where you want it
with a secure Post Office Box. Sign up for
a box online at usps.com/poboxes.

Bill #: 1000100732634
Clerk: 04

All sales final on stamps and postage
Refunds for guaranteed services only
Thank you for your business

HELP US SERVE YOU BETTER

Go to: <https://postalexperience.com/Pos>

TELL US ABOUT YOUR RECENT
POSTAL EXPERIENCE

YOUR OPINION COUNTS

Customer Copy